



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

MAR - 3 2016

Ms. Therese Vick  
Campaign Coordinator  
North Carolina Healthy, Sustainable Communities  
Blue Ridge Environmental Defense League  
4617 Pearl Road  
Raleigh, North Carolina 27610

Dear Ms. Vick:

Thank you for your letter dated October 20, 2015, on behalf of the Blue Ridge Environmental Defense League (BREDL), Chatham Citizens Against Coal Ash Dump and EnvironmentalLEE. In your letter and the email transmitting it, you requested that the U.S. Environmental Protection Agency initiate a formal review of permits issued by the North Carolina Department of Environmental Quality (NCDEQ) for the placement of coal ash in clay/shale mines in Lee and Chatham County. You also asked that the EPA evaluate the related 404 permit issued by the U.S. Army Corps of Engineers (Corps) to determine whether or not that permit was properly approved and whether the applicant addressed all regulatory requirements.

As you noted in your letter, and as confirmed by my staff through discussions with the NCDEQ, the permits in question were issued by the State pursuant to the *North Carolina Coal Ash Management Act of 2014* (CAMA). In addition to meeting applicable State requirements, the permittee is also subject to the applicable provisions of the federal *Disposal of Coal Combustion Residuals from Electric Utilities* final rule (CCR Rule). The CCR Rule includes minimum criteria for siting, designing, constructing and operating solid waste management facilities that receive CCR.

The CCR Rule was promulgated under the provisions of the Resource Conservation and Recovery Act (RCRA) which govern the management and disposal of non-hazardous solid wastes. It is a self-implementing program, enforceable through the RCRA citizen suit provision and by the states using their independent regulatory authority, but over which the EPA has no permitting or enforcement authority. Consequently, it is not within the EPA's purview to conduct the review of the State permits that you have requested.

With regard to the 404 permit, the Corps, and not the EPA, is the permitting authority. Therefore, questions regarding the approval of the permit and whether the applicant addressed the regulatory requirements are appropriately directed to the Corps. The EPA reviewed the proposed project for this 404 permit during the public comment period and submitted general comments to the Corps via email on April 6, 2015. A copy of the EPA's email comments and other records were provided to you separately in response to the October 28, 2015, request you submitted pursuant to the Freedom of Information Act.

The EPA appreciates your actions to protect and preserve the environment and health for the citizens of North Carolina. If you have any further questions please contact Mr. Davy Simonson at (404) 562-8457.

Sincerely,

  
Heather McTeer Toney  
Regional Administrator

cc: Ms. Linda Culpepper  
Director  
North Carolina Division of Waste Management

Ms. Jean Gibby  
Chief  
U.S. Army Corps of Engineers